

MYERS BIGEL SIBLEY & SAJOVEC  
Patent Attorneys  
4140 Parklake Avenue, Suite 600, Raleigh, NC 27612  
P.O. Box 37428, Raleigh, NC 27627  
919-854-1400  
Facsimile 919-854-1401

TELECOPIER TRANSMISSION  
COVER SHEET

Date: October 22, 2003

File Number: 5470-250

Telecopier No.: 703-746-3143

Telephone No.: 703-308-4554

To: Examiner Shengjun Wang, GAU 1617

Company: U.S. Patent and Trademark Office

From: Shawna Cannon Lemon

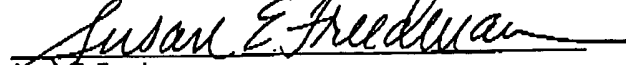
Number of Pages: 25 Return fax to: self

If there is a problem with this transmission, please call (919) 854-1400. Our fax number is (919) 854-1401.

Attached for filing in USSN 09/465,429 is a "Notice of Improper Request for Continued Examination (RCE) and an Amendment with attached cited therein.

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER C.F.R. § 1.8

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office via facsimile number 703-746-3143 on October 22, 2003.

  
Susan E. Freedman

Date of Signature: October 22, 2003

Confidentiality Note

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address above via the United States Postal Service. THANK YOU.



Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

DATE MAILED:

**NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 10-3-03 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: If a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) has been filed in the utility or plant application (including a previously filed CPA) that was filed on or after May 29, 2000, the request for a CPA has been treated as a RCE because the CPA practice no longer applies to such application. The constructive RCE, however, is improper for reason(s) indicated above.

**A copy of this notice MUST be returned with any reply.**

Direct the reply and any questions about this notice to:

Henrietta E. Dundy Examining Group 1617

(703) 30 8-4655  
FORM PTO-2051 (Rev. 3/2001)